

July 21, 2017

John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Tradepoint Atlantic
Forest Conservation Variance
Tracking # 07-17-2515

Dear Mr. Canoles:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on July 19, 2017. This request proposes to apply Forest Conservation requirements only to pervious areas by subtracting impervious surfaces from the net tract area of property. The request also proposes to separately apply Forest Conservation requirements to the lease area of each project at the time of development, rather than apply the requirements to the entire 1970 acre non-Critical Area portion of the property at one time.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. Applying the Forest Conservation requirements to the entire 1970 acre area and requiring full application of the law to the entire property at one time would not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The Tradepoint Atlantic property is unique due to the large size of the property. Site build-out will occur over several years and involve numerous individual developments. Additionally, the presence of 590 acres of existing impervious surfaces resulting from historical site development is unique to the property. Therefore, this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance request will not alter the essential character of the neighborhood. The site was historically occupied by heavy industrial uses, and will be converted to less intensive uses during redevelopment. Therefore, granting of the special variance will not alter the essential character of the neighborhood.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. No major forest clearing or other natural resources impacts will occur as a result of site development. Additionally, State-mandated stormwater management requirements will be applied to the individual lease areas at the time of development. Therefore, granting of the special variance will not adversely affect water quality, and this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The size of the property and presence of impervious surfaces are not due to conditions or circumstances which resulted from actions taken by the petitioner. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Granting of a special variance to facilitate redevelopment of a large historically disturbed site where no major forest clearing will occur is consistent with the spirit and intent of the Forest Conservation Law, and this criterion has been met.

Based upon our review, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. By September 30, 2017 a Forest Stand Delineation for the entire 1970 acre non-Critical Area portion of the property shall be submitted to EPS for review and approval.

2. The total amount of impervious surfaces on the Tradepoint Atlantic property that may be subtracted out of the net tract area shall be 590 acres, as shown on the attached exhibit. This information has already been provided to Tradepoint Atlantic representatives in a usable electronic format.
3. A Forest Conservation Plan (FCP) must be submitted to EPS for each separate project at the time a tenant or user seeks development plan or permit approval. The site area for each FCP shall include the lease area, and any project limit of disturbance that extends outside of the lease area.
4. The impervious surfaces to be subtracted must be shown on each FCP and quantified in each Forest Conservation Worksheet.
5. On each FCP, forest retention areas within the project site area must be designated and permanently protected as a Forest Conservation Easement at the time of redevelopment.
6. Mitigation to meet all of the required afforestation and reforestation requirements for each project must occur at the time of redevelopment, and shall include a minimum 2:1 replacement requirement for any cleared forest. Mitigation options may include onsite or offsite planting, purchase of forest retention or planting mitigation bank credits, or payment of a fee-in-lieu of planting to Baltimore County.
7. No further deferrals of Forest Conservation requirements on the Tradepoint Atlantic property will be allowed for phased development projects.
8. If Baltimore County EPS is mandated by the State to follow stricter Forest Conservation afforestation or reforestation mitigation requirements in the future, any Tradepoint Atlantic site FCP submitted to EPS for approval after the effective date of the State-mandated changes shall meet the stricter mitigation requirements.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement on the next page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

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If you have any questions regarding this correspondence, please contact Mr. David Lykens at 410-887-3776 or Ms. Patricia Farr at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

Attachment

c: Barbara Kernan
David Lykens
Regina Esslinger
Chris Mudd
Justin Dunn

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Property Owner

Date

Printed Name